

RIGHT TO FINANCIAL PRIVACY**OVERVIEW**

The Right to Financial Privacy Act (RFPA) establishes specific procedures for government authorities which seek information from a financial institution about a customer's financial records and imposes limitations and duties on financial institutions prior to the release of information sought by government agencies.

**Examination
Objective(s)**

The objective for the examination is to:

- Ensure that the financial institution's practices are in conformance with RFPA

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DEFINITION(S)**Customer**

A customer is defined as any person, or representative of that person, who utilized or is utilizing any services of a financial institution. It also includes any person for whom the financial institution is acting or has acted as a fiduciary. However, a customer **does not** include a corporation or a partnership of six or more individuals.

**EXAMINATION
PROCEDURES****EXAMINATION
PROCEDURES**

| Evaluate Compliance with the RFPA |
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| 1. Determine whether the financial institution has established procedures and internal controls for fulfilling requests by government authorities for a customer's financial records to ensure that all requests are handled in compliance with the Act. (Section 1100) |
| 2. Determine whether the financial institution has received any requests covered by the RFPA for a customer's financial records since the last compliance examination. (1103, 1105, 1106, 1107, 1108, 1114) <i>NOTE: RFPA does not apply to prohibit or limit the FDIC's disclosure of financial information to state authorities, including banking, law</i> |

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enforcement and other state agencies such as appraisal certification boards.

NOTE: RFPA does not prohibit the FDIC from providing DOJ with “raw” CRA census-tract data from banks’ annual CRA reports even if DOJ used the CRA data to assist in enforcing anti-trust or other public laws. The FDIC should furnish DOJ with “raw” CRA data only in conjunction or consultation with the other federal banking agencies.

If the financial institution has received such requests since the last compliance examination . . .

3. Determine whether the financial institution provided a customer’s financial records to government authorities **only** after receiving the proper written certification. (1105, 1106, 1107, 1108)
4. Determine whether internal procedures require that the financial institution refrain from requiring a customer’s authorization for disclosure of financial records as a condition of doing business. (1103(d)(2) and 1104(b))
5. Determine whether the financial institution keeps appropriate records of instances when a customer’s records are disclosed to the government authority upon authorization by the customer, including a copy of the request and the identity of the government authority. (1104(c) and 1113(h)(6))
6. Determine whether the financial institution provides the customer a copy of the records upon request (unless a court order has been obtained blocking such access). (1104(c) and 1113(h)(6))
7. Determine whether the financial institution maintains appropriate records of all disclosures of a customer’s records made to a government authority in connection with a government loan, guaranty, or insurance program.
8. Determine whether the financial institution allows a customer to examine these records upon request. (1113(h)(6))

**WORKPAPER
STANDARDS**

Appropriate workpapers or standardized workpapers must document all findings when reviewing compliance with the RFPA. Refer to the Standardized Workpapers Appendix in this manual.



**FDIC LAW,
REGULATIONS,
& RELATED
ACTS**

Applicable Rules

Title XI – Right to Financial Privacy, Volume 3, Page 8598

**Advisory
Opinions**

Department of Justice Advisory – The Right to Financial Privacy Act of 1978,
Volume 3, Page 8609

**Statements of
Policy**

None

**DCA
MEMORANDA**

Amendments to the Right to Financial Privacy Act, Transmittal #89-027, dated
2/23/89

**FINANCIAL
INSTITUTION
LETTERS (FIL)**

None
